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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,191

10/22/2003

Pamela Cifra

13720-105089US1

8424

65989

7590

12/31/2009

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NEW YORK, NY 10036-4003

EXAMINER

ROYDS, LESLIE A

ART UNIT

PAPER NUMBER

1614

NOTIFICATION DATE

DELIVERY MODE

12/31/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptomailnyc@kslaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/692,191	<b>Applicant(s)</b> CIFRA ET AL.	
	<b>Examiner</b> Leslie A. Royds	<b>Art Unit</b> 1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2009 and 13 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-28,30,31,33,35,105,107-109,115-117 and 122-124 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-28,30,31,33,35,105,107-109,115-117 and 122-124 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>15Apr09</u> . | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> .           |

/Ardin Marschel/  
Supervisory Patent Examiner, Art Unit 1614

Continuation of Attachment(s) 6). Other: Notice to Comply with Sequence Rules.

**DETAILED ACTION**

**Claims 24-28, 30-31, 33, 35, 105, 107-109, 115-117 and 122-124 are presented for examination.**

A request for continued examination under 37 C.F.R. 1.114, including the fee set forth in 37 C.F.R. 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 C.F.R. 1.114, and the fee set forth in 37 C.F.R. 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 C.F.R. 114. Applicant's payment and submission filed April 15, 2009 have been received and entered into the present application. Accordingly, prosecution has been reopened.

Claims 24-28, 30-31, 33, 35, 105, 107-109, 115-117 and 122-124 remain pending. Claims 1-23, 34, 36-67, 73, 76-99, 106, 111-114, 118-121 and 125 are cancelled. Claims 24, 35, 105, 115-117 and 123-124 are amended.

Applicant's arguments, filed April 15, 2009, have been fully considered and are persuasive regarding the rejections of record. Accordingly, previously withdrawn claims 28, 30-31, 33, 35, 109 and 122 are rejoined and examined.

***EX PARTE QUAYLE ACTION***

This application is in condition for allowance at this time except for the following formal matters:

***Objection to the Specification***

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. 1.821(a)(1) and (a)(2). See, *e.g.*, p.20, para.[61] of the instant specification. However, this application fails to comply with the requirements of 37 C.F.R. 1.821 through 1.825 because it lacks any submission of a computer readable form sequence listing, a paper copy for the specification, a statement under 37 C.F.R. 1.821(f) and (g), and SEQ ID Nos. cited along with each sequence in the specification or figures.

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Applicant is reminded that SEQ ID Nos. are not required in the figures *per se*. However, the corresponding SEQ ID Nos. are required in the Brief Description of the Drawings section in the specification. Applicant is also reminded that a CD-ROM sequence listing submission may replace the paper and computer readable form sequence listing copies.

The paper or compact disc copy of the Sequence Listing is an integral part of the application. If submitted on paper, the Sequence Listing must begin on a new page, should appear at the end of the application, and preferably should be numbered independently of the numbering of the remainder of the application. The new page that begins the "Sequence Listing" should be entitled "Sequence Listing". If not submitted as such at filing, the Sequence Listing must be inserted into the application via amendment, *e.g.*, by preliminary amendment. If submitted on compact disc, the specification must contain an incorporation by reference of the material on the compact disc in a separate paragraph, identifying each compact disc.

**Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935, C.D. 11, 453 O.G. 213.**

**A shortened statutory period for reply to this action is set to expire TWO (2) MONTHS from the mailing date of this letter.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie A. Royds whose telephone number is (571)-272-6096. The examiner can normally be reached on Monday-Friday (9:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on (571)-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leslie A. Royds/  
Patent Examiner, Art Unit 1614

December 16, 2009

/Ardin Marschel/  
Supervisory Patent Examiner, Art Unit 1614